

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 94-430

September 1, 1998

PUBLIC UTILITIES COMMISSION  
Commission Inquiry into Establishment  
of Low-Income Discount Rate for  
Residential Households and to Allocate  
Water Supply Costs Among Customer  
Classes on a Volumetric Basis  
(Public Advocate Petition Filed 12/5/95)

ORDER

WELCH, Chairman; NUGENT, Commissioner

---

## **I. SUMMARY**

In this Order we terminate our inquiry.

## **II. BACKGROUND**

On December 3, 1994, the Public Advocate (OPA) filed a petition asking the Commission to initiate a rulemaking pursuant to 5 M.R.S.A. § 8055 and Chapter 110, Part 5 of the Commission's Rules. The petition included a draft proposed rule. The proposed rule would require water utilities to offer a low-income discount rate for residential water customers and allocate water supply costs among customer classes on a volumetric basis for rate increases greater than 10%, unless authorized otherwise by the Commission following an evidentiary hearing. On February 23, 1995, the Commission issued an order denying OPA's request to open a rulemaking. Instead, the Commission opened an inquiry to gather additional information about the OPA's two proposals.

The Commission established a work group consisting of representatives of the Commission staff, Public Advocate, and consultants hired by both the Commission and OPA (Work Group) to assist in gathering further information. The group issued its Low Income Water Rate Investigation Report (Report) on July 2, 1997. The report concluded that affordability of water is a problem for some Maine customers. The Report identified four possible approaches to address that problem: offering water conservation measures; providing credits or discounts; redesigning rates to provide relief; and subsidizing customers from general tax revenues. Although the Work Group agreed that affordability was a problem for some customers and general tax relief was unlikely, they could not agree on what approach, if any, they would recommend to the Commission. The Work Group suggested that its Report be put out for public comment to gather additional information.

### III. DISCUSSION

After reviewing the Report, we do not believe that seeking additional comments will bring us closer to acting on the issues raised in the Public Advocate's original request. The OPA asked the Commission to adopt a rule that would require every water utility in the State to offer a program of reduced cost services to qualified low income customers. This was an attempt to respond to the price increases resulting from water utility compliance with the federal Safe Drinking Water Act. The Report suggests that such a program could operate in a manner similar to existing electric utility low income assistance programs with either a discount or a credit based on bills not exceeding a certain percentage of income.

However, unlike electric and telephone utilities, there is no legislative authority for water utilities to consider income of customers in establishing rates.<sup>1</sup> In fact, rates for municipal and quasi-municipal water utilities must be uniform within the service territory where costs are substantially uniform. 35-A M.R.S.A. § 6105(3).

Utility rates cannot be designed to give preference to any particular person or class of customers. 35-A M.R.S.A. § 702. Generally, rates follow the costs attributable to serving a particular class of customers. See e.g., Maine Water Co. v. Public Utilities Commission, 482 A.2d 433, 455-458 (Me. 1984) (discussing cost of service principles). In certain instances the Legislature has directed departures from cost-based rates based on other policy considerations. For example, in enacting 35-A M.R.S.A. § 7101 (formerly 35 M.R.S.A. § 74) in 1983, the Legislature determined that all telephone subscribers benefit when virtually anyone else in the State can be called, thereby justifying special rates for low income customers to further such universal service. Similarly in 1991, the Legislature specifically required the Commission to consider the ability of low-income customers to pay in full for electric services as electric rates are redesigned 35-A M.R.S.A. § 3152(1)(C). The Commission had earlier rejected a pilot program offering low income customers a discount because it deviated from cost-based principles. Docket No. 89-68 (Oct. 31, 1990). The Legislature then authorized the Commission to consider the needs of low income customers in designing rates. This was at a time when electric rates were rapidly increasing, with a particularly adverse impact on electric space heat customers.

---

<sup>1</sup>For electric utilities, see 35-A M.R.S.A. §§ 3152(1)(C), 3153-A, 3154, 3214; for telephone utilities see 35-A M.R.S.A. §§ 7101(1), 7104.

Although we have general authority to ensure just and reasonable rates and rate design, requiring all (or some) water utilities to provide low income customer discounts, where the costs will be made up by other ratepayers, raises policy issues more appropriately resolved by the Legislature. The Report suggests that water bills exceeding 2% of a household's income should trigger some form of assistance. The Report notes that although the average water customer pays .87% of annual income for water (assumes average household income \$20,527, average annual bill \$178.59), that as annual household income goes down, the relative percentage of water utility burden increases dramatically. Nonetheless, we note the need for assistance in water bills is not of the same magnitude of those presented by electricity. For example, in CMP's Electric Lifeline Program, the lowest income customers must agree to pay at least 6% of their income if their estimated annual usage is 5000 kWh or more and 11% when estimated annual usage exceeds 14,000 kWh or more. These customers have annual electric bills ranging from \$650 to \$1820.

The Report also suggests water utilities could offer conservation programs with the costs being paid by all ratepayers. The only statutory authority related to water utilities' offering conservation services is contained in 35-A M.R.S.A. § 6107. Before a utility may institute a system development charge to finance capital outlays for water system expansions caused by increased demand for service, it must report to the Commission its efforts in implementing water conservation programs. The utility must state what combination of system development charges and new conservation programs will allow the utility to meet growing demand in the least costly manner. Only two water districts in Maine have established system development charges (Kennebunk, South Berwick).

The issue of water conservation has also arisen in individual rate cases or investigations into building new plants. For example, the Portland Water District (PWD) agreed in a stipulation to explore and implement conservation programs or techniques which are cost-effective. *Portland Water District, Proposed Increase in Rates*, Docket No. 90-042 (April 19, 1990); *Portland Water District Proposed Increase in Rates*, Docket No. 91-162 (April 27, 1992).<sup>2</sup> Without further direction from the Legislature mandating cost effective conservation efforts by all water utilities, we believe the course we have taken of

---

<sup>2</sup>Indeed, Commissioner Nugent heard strong public praise from the Executive Director of the People's Regional Opportunity Program (PROP, the community action agency in Cumberland County) about the effectiveness of PWD's water-conservation program for low-income persons and the commitment of PWD's management to it during Commission's "On the Road" session in Bridgton in the fall of 1997.

considering conservation in individual cases, adequately addresses the need for conservation.

The OPA's proposed rule would also require every water utility that seeks an increase in rates of 10% or greater to assign those costs to each customer class on the same proportion as the volume of water sold to each customer class in the preceding calendar year unless the Commission allows a deviation from the requirement. The Report suggests a number of ways rate design can be used to alleviate the burden of water bills on low income customers. This includes lowering the minimum usage amount (generally 1200 cubic feet). As noted in the Report, this may help some low income customers (in smaller households) but not benefit others. The report also describes changes in declining block rate structuring. We prefer to treat such rate design issues on a case-by-case basis. The proposed rule would create a blanket requirement that may not be necessary or beneficial for all water utilities depending on their customer base. Most water utilities have already complied with the surface water treatment requirements of the Safe Drinking Water Act, and, although this has caused water rates to increase, we do not see an effect that would cause us to adopt such a rate design policy at this time.

#### IV. CONCLUSION

As described above, we will not institute a rulemaking to consider a low-income rate for water utilities or to require specific rate designs for water rate increases.

Therefore we,

#### O R D E R

that this inquiry terminate pursuant to Chapter 110 § 1206(A) and the Administrative Director close this Docket.

Dated at Augusta, Maine this 1st day of September, 1998.

BY THE ORDER OF THE COMMISSION

---

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.